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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **SOUTHERN DIVISION**  
11

12 **JAMES SUNGCHULL KIM,**

13  
14 **Plaintiff,**

15 **v.**

16 **JENNIFER PLUMMER and SUZANNA**  
17 **PARRA,**

18 **Defendants.**  
19  
20  
21  
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**Case No.: SACV 23-00652-CJC (ADSx)**

**ORDER GRANTING PLAINTIFF'S  
EX PARTE MOTION TO REMAND  
[Dkt. 7] AND DENYING PENDING  
MOTION AS MOOT [Dkt. 3]**

23 **I. INTRODUCTION & BACKGROUND**  
24

25 On April 14, 2023, Defendant Jennifer Plummer removed this unlawful detainer  
26 action originally filed in the Superior Court of California, County of Orange by Plaintiff  
27 James Sungchull Kim. (Dkt. 1 [Notice of Removal].) Defendant asserted that removal  
28 was proper based on the existence of federal question subject matter jurisdiction under 28

1 U.S.C. § 1331. (*Id.*) On April 27, 2023, Plaintiff filed an ex parte motion to remand the  
2 case. (*See* Dkt. 7 [First Ex Parte Application to Remand Case].) For the following  
3 reasons, Plaintiff’s motion is **GRANTED**.

## 4 5 **II. DISCUSSION**

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7 A defendant may remove a civil action filed in state court to a federal district court  
8 if the federal court may exercise original jurisdiction over the action. *See* 28 U.S.C.  
9 § 1441(b). Federal courts have subject matter jurisdiction over cases that (1) involve  
10 questions arising under federal law or (2) are between diverse parties and involve an  
11 amount in controversy that exceeds \$75,000. *See* 28 U.S.C. §§ 1331, 1332. Principles of  
12 federalism and judicial economy require courts to “scrupulously confine their [removal]  
13 jurisdiction to the precise limits which [Congress] has defined.” *Shamrock Oil & Gas*  
14 *Corp. v. Sheets*, 313 U.S. 100, 109 (1941). Indeed, “[n]othing is to be more jealously  
15 guarded by a court than its jurisdiction.” *United States v. Ceja-Prado*, 333 F.3d 1046,  
16 1051 (9th Cir. 2003) (internal quotations omitted). The defendant removing the action to  
17 federal court bears the burden of establishing that the district court has subject matter  
18 jurisdiction over the action, and the removal statute is strictly construed against removal  
19 jurisdiction. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (“Federal  
20 jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
21 instance.”).

22  
23 Federal courts have a duty to examine their subject matter jurisdiction even if the  
24 parties do not raise the issue. *See United Investors Life Ins. Co. v. Waddell & Reed, Inc.*,  
25 360 F.3d 960, 966 (9th Cir. 2004) (“[A] district court’s duty to establish subject matter  
26 jurisdiction is not contingent upon the parties’ arguments.”). Whether subject matter  
27 jurisdiction exists may be raised at any time, and if it appears that the district court lacks  
28 subject matter jurisdiction at any time prior to the entry of final judgment, the case must

1 be remanded to state court. *See* 28 U.S.C. § 1447(c); Fed. R. Civ. P. 12(h)(3) (“If the  
 2 court determines at any time that it lacks subject-matter jurisdiction, the court must  
 3 dismiss the action.”); *GFD, LLC v. Carter*, 2012 WL 5830079, at \*2 (C.D. Cal. Nov. 15,  
 4 2012) (“The court may—indeed must—remand an action *sua sponte* if it determines that  
 5 it lacks subject matter jurisdiction.”).

6  
 7 It is clear that the Court lacks subject matter jurisdiction over this case. Plaintiff’s  
 8 Complaint states a single claim for unlawful detainer under California law. (*See* Dkt. 1 at  
 9 10.) The Complaint does not include any claim “arising under the Constitution, laws, or  
 10 treaties of the United States.” 28 U.S.C. § 1331. There are no federal claims in  
 11 Plaintiff’s Complaint. *See Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1748  
 12 (2019) (explaining that to evaluate whether a court has original jurisdiction, it evaluates  
 13 whether the plaintiff’s operative complaint could have been brought originally in federal  
 14 court).

15  
 16 While in the Notice of Removal mentions that Defendant filed a “Demurrer to the  
 17 complaint based on a based on a defective notice, i.e., the Notice to Pay or Quit, failed  
 18 [sic] to comply with The Protecting Tenants Moratorium Act” and asserts that “federal  
 19 question exists because Defendant’s Answer, a pleading that depends on the  
 20 determination of Defendant’s rights and Plaintiff’s duties under federal law,” (Dkt. 1 at  
 21 2), federal question jurisdiction is present only when “a federal question is presented on  
 22 the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482  
 23 U.S. 386, 392 (1987). Accordingly, a defense or answer which raises issues of federal  
 24 law cannot give rise to federal question jurisdiction. *Id.* at 10; *see also ARCO Env’tl.*  
 25 *Remediation, L.L.C. v. Dept. of Health and Env’tl. Quality*, 213 F.3d 1108, 1113 (9th Cir.  
 26 2000) (“[T]he existence of federal jurisdiction depends solely on the plaintiff’s claims for  
 27 relief and not on anticipated defenses to those claims.”); *Valles v. Ivy Hill Corp.*, 410  
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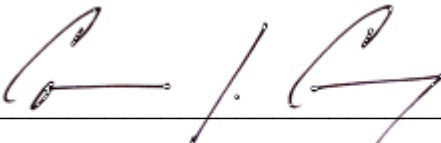
1 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim does not  
2 confer jurisdiction on a federal court.”).

3  
4 Diversity jurisdiction is also lacking. Diversity jurisdiction exists “where the  
5 matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and  
6 costs.” 28 U.S.C. § 1332(a). The amount in controversy requirement has not been met  
7 because the Complaint demands less than \$10,000 in damages. (See Dkt. 1 at 7  
8 [“Amount Demanded Does Not Exceed \$10,000.00”].)

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10 **III. CONCLUSION**

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12 For the foregoing reasons, the case is hereby **REMANDED** to the Superior Court  
13 of California, County of Orange. The pending motion (Dkt. 3) is **DENIED AS MOOT**.

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16 DATED: May 1, 2023

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19 CORMAC J. CARNEY  
20 UNITED STATES DISTRICT JUDGE  
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